

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF KENTUCKY  
LOUISVILLE DIVISION**

<b>IN RE: YAMAHA MOTOR CORP. RHINO ATV PRODUCTS LIABILITY LITIGATION</b>  <b>THIS DOCUMENT RELATES TO: BURNS V. YAMAHA MOTOR CORPORATION, U.S.A., ET AL.</b>  <b>CASE NO. 3:12-cv-00156-JBC</b>	<b>Master File No. 3:09-MD-2016-JBC MDL No. 2016</b>  <b>JENNIFER B. COFFMAN, U.S. DISTRICT JUDGE</b>
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**ORDER APPROVING SETTLEMENT  
AND FINAL DISMISSAL OF ALL CLAIMS**

On this day, came on to be heard the above-entitled and numbered cause, wherein Patricia Burns, individually and as next friend and guardian of M.B., a minor, are Plaintiffs, and Yamaha Motor Corporation, U.S.A., Yamaha Motor Manufacturing Corporation of America, and Yamaha Motor Co., Ltd., are the Defendants.

Patricia Burns, individually and as next friend and guardian of M.B., a minor, Plaintiffs, appeared by affidavit.

The parties made known to the Court that any previously made jury demands are waived, and that all matters of fact and things in controversy are submitted to the Court. The named parties announced to the Court that they had agreed to settle and compromise all issues, claims and causes of action now existing or that may hereafter arise between Plaintiffs and Defendants. The total amount of the settlement is confidential, the terms of which are described in a Confidential Settlement Agreement, Release and Indemnity Agreement (the "Settlement Agreement"), a copy of which was tendered to the Court under seal but not filed. Moreover,

pursuant to Paragraph 1 of this Court's Agreed Order Establishing Procedures for Settlements Involving Minors, paragraph 1, dated October 19, 2010, (Doc. No. 2059), Plaintiffs have filed an Unopposed Motion for the Appointment of a *Guardian Ad Litem* in this case, which is consistent with New York law.

After reviewing the pleadings filed in this case, the Court heard evidence touching upon such compromise and Settlement Agreement, with reference to the material facts regarding the incident that occurred on July 13, 2006, involving the subject Rhino (the "Incident"), and all matters pertaining to the alleged liability of Defendants and the damages to Plaintiffs, as well as the capacity of the parties to prosecute this action as stated herein. Upon hearing the evidence, the Court is of the opinion that such Settlement Agreement is in the best interest of Plaintiffs and the terms of the Settlement Agreement are in all respects reasonable.

Pursuant to Section I.B.8. of the MDL Common Benefit Order ("CBO"), entered in MDL 2016, on October 6, 2010, counsel for Yamaha Motor Corporation, U.S.A., Yamaha Motor Manufacturing Corporation of America, and Yamaha Motor Company, Ltd. (the "Yamaha Defendants") and the undersigned plaintiffs' counsel hereby certify that a 5% assessment against the recovery in this action by Patricia Burns, both individually and as next friend and guardian of M.B., a minor, has been applied to credit held by Lieff Cabraser, Heimann & Bernstein, LLP with the Common Benefit Fund.

It is understood and agreed by the Plaintiffs that the payment of the monies described in the Settlement Agreement are in settlement of disputed claims, and that Defendants have denied liability and continue to deny liability of whatever nature to the Plaintiffs. It is further understood and agreed that Defendants herein by the Settlement Agreement make no admission of liability to the Plaintiffs, nor to any other person, firm, corporation or other entity who did not assert a

claim or file a lawsuit against Defendants, but rather that Defendants make this settlement solely to purchase their peace and to avoid the vexation and expense of further litigation.

**Accordingly, the Court makes the following findings and Orders:**

The Court finds that Plaintiffs and Defendants have satisfactorily compromised and settled all of the issues involved herein.

The Court is of the opinion that the Settlement Agreement executed by the Plaintiffs is fair and equitable and that the same should be, and is hereby in all things approved and the Court hereby specifically finds that the Settlement Agreement is in the best interests of the minor, M.B. The Court further finds that each of the Defendants has given good and valuable consideration to each of the Plaintiffs for the settlement of this lawsuit. The Court hereby further finds that the Plaintiffs' Unopposed Motion to Approve and Fund the Minor's Settlement is well taken and is hereby granted. The settlement funds shall be allocated and distributed as set forth in the Plaintiffs' Motion, which states that because M.B. is under the age of 18, her net share of the settlement proceeds will be placed in a custodial account in a federally insured institution that cannot be drawn upon except by M.B. upon reaching the age of 18 years, or with the express permission of this Court. The provisions of the Plaintiffs' Motion to Distribute and Allocate the Settlement Funds is adopted and incorporated as if fully set forth herein. Upon filing of a proper Motion by the Plaintiffs and for good cause shown, the Court will entertain any future requests for an early release of funds from the monies held in a custodial account solely for the benefit of M.B.

The Court approves the settlement entered into by the parties named herein and finds that the claims of Plaintiffs against Defendants should be dismissed with prejudice; and that the

Plaintiffs' claims, asserted or which could have been asserted herein against Defendants are fully satisfied in all respects, and that no execution shall ever issue herein.

The Court finds that the terms of the Settlement Agreement provide that the taxable court costs will be paid by the party incurring same.

The Court further finds that the terms of the Settlement Agreement provide that Plaintiffs will pay all fees and expenses due to their attorneys from the settlement amount set forth in the Settlement Agreement and finds that such fees and expenses are in all respects reasonable and justified.

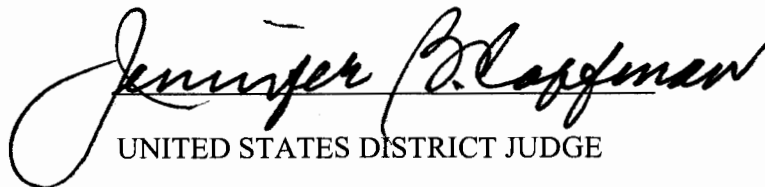
The Court further finds that Plaintiffs represent that there are no unresolved liens or rights of reimbursement related to the claims being settled and agree that it is their responsibility to pay, compromise, or otherwise satisfy any such rights out of the funds paid in connection with this settlement. Plaintiffs have further agreed to indemnify completely and hold harmless the Yamaha Releases from any and all liens for medical care, health expenses, Social Security payments, disability, insurance subrogation claims, Medicare/Medicaid liens or rights of reimbursement, Worker's Compensation liens, child support liens, and any other form of lien which has arisen or may arise as a result of payments made, or to be made in the future, by or on behalf of any Plaintiff as a result of the Incident. The Yamaha Releases have specifically bargained for the assurance of the satisfaction of all related liens and rights of reimbursement for the full protection of their respective Yamaha Releases, so that no lawsuit, claim or cause of action will ever be asserted against any of them arising out of or related to the Incident.

The Court further finds that Patricia Burns are authorized to settle and compromise all claims on behalf of minor, M.B. The Court further finds that no execution or other process shall ever issue against the Defendants and that the Defendants are fully and finally released.

The Court further finds that this Judgment has been fully and finally satisfied upon funding of the settlement stated above, on behalf of Defendants, and Defendants Yamaha Motor Corporation, U.S.A., Yamaha Motor Manufacturing Corporation of America, and Yamaha Motor Co., Ltd., are hereby fully and finally relieved and discharged from all liability as a result of the Incident made the basis of this lawsuit once such funding occurs.

The Court further finds that this Judgment fully and finally disposes of all parties and all claims and that this shall constitute the Court's FINAL JUDGMENT.

Signed: 1/7/13

  
UNITED STATES DISTRICT JUDGE